IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 24183 of 2004

Between:

A.Rajani Kumari, w/o Y.Ramakrishna, School Assistant and in-charge Head Mistress, 7 PSS Kistapur, Jannaram Mandal, Adilabad District.

..... PETITIONER

AND

1 The District Educational Officer, Adilabad.
2 The Deputy Educational Officer, Luxettipet Head Quarters, Mancherial, Adilabad District.
3 The Commissioner and Director of School Education, A.P.,Hyderabad.
4 The Government of Andhra Pradesh, represented by its Secretary, Education Department, Secretariat, Hyderabad.

5 The C.E.O. Zilla Parishad, Adilabad**.** (R5 is impleaded as per Court order dated 7.3.2005).

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of certiorari calling for all the connected records including the impugned judgment of the Hon'ble Tribunal in OA No.6074 of 2004 dated 15-12-2004 and quash the same as illegal, improper, unjust, arbitrary and further declare the proceedings of the first respondent in Rc.No.B1/5891/2004 dated 26-10-2004 as illegal, improper, unjust, arbitrary and without jurisdiction.

Counsel for the Petitioner: MR.K.G.KRISHNA MURTHY

Counsel for the Respondent Nos.1 to 4: GP FOR SERVICES I

Counsel for Respondent No.5: Ms.JYOTI ESWAR GOGINENI

The Court made the following:

ORAL ORDER: (per GB.J.)

The Writ Petition is filed calling in question the order passed by A.P. Administrative Tribunal (for short Tribunal) in O.A.No.6074 of 2004, dated 15.12.2004.

2. The matter relates to transfer of the petitioner from Zannaram to Kyathanapally. The petitioner was working as Senior Assistant. While she was functioning as in-charge Headmistress of Zilla Parishad High School, Kistapur, she was transferred by the 1st respondent-District Educational Officer, Adilabad, on 26.10.2004 to Upper Primary School, Kyathanapally, Vempally Mandal. The said order came to be challenged before the Tribunal. The Tribunal, after considering the matter, dismissed the OA. Against the said dismissal order, the present Writ Petition has been filed.

3. The learned counsel for the petitioner apart from making several other submissions, primarily pressed into service the contention of jurisdiction. He submits that the District Educational Officer, Adilabad has no jurisdiction to pass the orders of transfers and in view of the decision of this Court in M.KESAVULU AND OTHERS vs. STATE OF ANDHRA PRADESH AND OTHERS[1], the appropriate authority to transfer the petitioner is the Chief Executive Officer, Zilla Parishad. Therefore on this ground alone, without going into the merits of the case, the order of the Tribunal is liable to be set aside.

4. On the other hand the learned Government Pleader for Services-I appearing for respondents 1 to 4 submits that the matter is already pending before the Government. He further submits that the decision of this Court supra (1) is also pending before the Supreme Court, but no stay was granted.

5. We have also heard Ms.Jyoti Eswar Gogineni, learned Standing Counsel for 5th respondent.

6. The only issue that arises for consideration is whether the District Educational Officer, Adilabad, has got jurisdiction in the wake of the decision of this Court referred to above.

7. It has been clearly stated in the Judgment supra (1) that in respect of the teachers employed by the Zilla Parishad, the said Zilla Parishad alone has got power to transfer the teachers and no others. Under the above circumstances, the order of transfer issued by the 1st respondent-District Educational Officer, Adilabad is not sustainable as it is wholly without jurisdiction.

8. The learned Government Pleader, however, tried to submit that as the petitioner had committed serious misconduct, it has become essential to shift her from that place. But it is to be noted that since the District Educational Officer-1st respondent has no jurisdiction to transfer the petitioner, we are not inclined to go into the merits of the case.

9. Accordingly the Writ Petition is allowed. The order of the Tribunal as well as the transfer order issued by the 1st respondent-District Educational Officer, Adilabad shall stand set aside. However, it is left open to Zilla Parishad, Adilabad, to review the matter and pass appropriate orders. No costs.

(G.BIKSHAPATHY, J.)

15th March, 2005.

(P.S.NARAYANA, J.)

SSR

Rule nisi is made absolute as above. Witness Sri Devinder Gupta, the Hon'ble the Chief Justice, on Tuesday, the 15th day of March, 2005.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The District Educational Officer, Adilabad.
2 The Deputy Educational Officer, Luxettipet Head Quarters,
Mancherial, Adilabad District.
3 The Commissioner and Director of School Education, A.P.,Hyderabad.
4 The Secretary, Education Department, Government of Andhra Pradesh,
Secretariat, Hyderabad.

5 The C.E.O. Zilla Parishad, Adilabad**.**

6 The Registrar, A.P. Administrative Tribunal, Hyderabad.

7 2 CCs to G.P. for Services-I, High Court of A.P. Hyderabad. (OUT)

8 2 CD copies

*Form-NIC-OGS/WP{**RS**}*